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PTO/SB/64 (07-06)

Approved for use through 09/30/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
50534.3

First named inventor: ANDREW J. TOTI

Application No.: 10/693,263

Art Unit: 3682

Filed: 10/23/2003

Examiner: HANSEN, COLBY M.

Title: CONTROL ROD MECHANISM AND SYSTEM

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity – fee \$ 1500.00 (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in the form of REPLY TO 04/07/2006 NOTICE (identify type of reply):

has been filed previously on _____
 is enclosed herewith.

08/14/2006 YPOLITE1 00000007 040639 10693263

- B. The issue fee and publication fee (if applicable) of \$ 01 FC:1453 1500.00 DA
 has been paid previously on _____
 is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

 Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required. A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Philip Dalton 8/8/06

Signature

08 AUGUST 2006

Date

PHILIP A. DALTON

Typed or printed name

26859

Registration Number, if applicable

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Address

(415) 505-0716

Telephone Number

SAN FRANCISCO, CA 94127-1423

Address

Enclosures: Fee Payment Reply Terminal Disclaimer Form

(three additional sheets)

 Additional sheets containing statements establishing unintentional delay Other: _____**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

 Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

08 AUGUST 2006

Date

Philip Dalton 8/8/06

Signature

PHILIP A. DALTON

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b).**

USSN 10/693263

This is supplemental to the statement in paragraph 4.

I am attorney of record for the present application, serial number 10/693,263, am the party responsible for prosecuting the present application, and was the party responsible for prosecuting the present application on the date of abandonment.

Throughout the pendency of the present application, It has been, and remains, my understanding that the present application is to be prosecuted to allowance and issuance.

1. Chronology

On 02/21/2006, I mailed to the US Patent and Trademark Office (hereafter "Patent Office") an AMENDMENT which added one dependent claim to the present application, thereby increasing the total number of claims from 5 to 6. That AMENDMENT did not add any independent claim, and did not add any multiple dependent claim. The AMENDMENT indicated that no fee for claims was required.

On 04/07/2006 the Patent Office issued a NOTICE REQUIRING EXCESS CLAIM FEES.

I did not receive the 04/07/2006 NOTICE (see support for this conclusion in section 2 below).

On 06/26/2006 the Patent Office issued a Notice of Abandonment for the present application. The 06/26/2006 Notice of Abandonment stated, in part, "Applicant was sent a notice of additional fees due on 4/7/2006, to which applicant has yet to reply."

I received and reviewed the 06/26/2006 Notice of Abandonment on 07/01/2006. After reviewing the 06/26/2006 Notice of Abandonment, I had no recollection of the 04/07/2006 NOTICE. Nor had the 04/07/2006 NOTICE been entered into any of my office dockets.

On or about 07/02/2006, I downloaded a copy of the 04/07/2006 NOTICE from the Patent Office website. That NOTICE indicated \$200.00 in fees were due for "excess claim(s) filed on 2/23/06." The 04/07/2006 NOTICE established a one month/30 day period for response ending on Monday, May 8, 2006. It is my present understanding that the \$200.00 fee was for an additional independent claim for the AMENDMENT mailed 02/21/2006.

2. Explanation regarding 04/07/2006 NOTICE

This explanation is presented as a separate section because of uncertainty regarding the relevance to unintentional delay.

I personally open and review all incoming mail which has a Patent Office return address, then enter that mail into, or have that mail entered into, multiple dockets. This office practice has been in use for approximately four years and, to my recollection, during that period of time, all incoming Patent Office mail having a due date has been entered into the office docket system.

The 04/07/2007 NOTICE and the requirement therein of additional fees due of \$200.00 were not expected, because the most recent AMENDMENT I had filed, on 02/21/2006, did not add any independent claim and added only one dependent claim, thereby merely increasing the total number of claims from 5 to 6.

I believe I would have recalled receiving and reviewing the 04/07/2006 NOTICE if I had received it: the 04/07/2006 NOTICE is short and easily read and understood and the subject matter (a short period for response and an unexpected requirement of an additional fee for claims) is noteworthy.

Based upon my lack of recollection of the 04/07/2006 NOTICE, despite the easily read and noteworthy subject matter therein; and based upon the lack of entry of the 04/07/2006 NOTICE into my office dockets, despite the success of my office procedures for handling and docketing incoming Patent Office mail, it is my belief that,

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as of my receipt on 07/01/2006 of the 06/26/2006 Notice of Abandonment, I had not received the 04/07/2007 NOTICE.

3. Action Requested

Favorable consideration of the statements and the explanation regarding the delay in filing the required reply to the 04/07/2006 NOTICE is requested. Favorable consideration and granting of this PETITION FOR REVIVAL are requested. Entry of and favorable action on the enclosed REPLY to the 04/07/2006 NOTICE are requested.